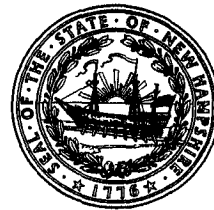




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 12, 2006

Thomas F. Foote
PO Box 159
Marlow, NH 03456

Re: Docket No. NPLA 05-003 – Thomas F. Foote

Dear Mr. Foote:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Scalfani,
Legal Assistant

cc: Harry T. Stewart, P.E., Director, DES Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Richard J. de Seve, DES WD/SSB

Thomas F. Foote
P.O. Box 159
Marlow, NH 03456

Re: Failure to Install Septic System
Marlow Hill Road

LICENSE ACTION
No. 05-003

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Water Division ("the Division") and Thomas F. Foote, an individual holding septic installer's license #2047 issued by the New Hampshire Department of Environmental Services ("DES"), parties to the above-captioned matter, and stipulate to the following:

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. DES issued septic system installer permit #2047 to Thomas F. Foote, to allow Mr. Foote to engage in the business of installing individual septic systems according to approved plans, and to repair or replace individual septic systems in appropriate circumstances pursuant to RSA 485-A:36,I.
3. On June 10, 2005, the Division issued Notice of Proposed License Action No. 05-003 ("the Notice") to Thomas F. Foote, seeking the revocation of his septic system installer's license.
4. Specifically, the Notice cited Thomas F. Foote for violating RSA 485-A:29, I, by failing to install a proper waste disposal system on his own property in Marlow. The Division sought a revocation of septic system installer permit #2047.
5. In order to settle this matter, the Division and Thomas Foote have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
6. Thomas Foote agrees to a one-year suspension of his license, septic system installer permit #2047, commencing from the date of approval of this agreement by the Commissioner of DES.
7. During this period of voluntary license suspension, Mr. Foote will not engage in the practice of installing, replacing or repairing septic systems in New Hampshire. If Mr. Foote installs, replaces, repairs; or assists in the installation, replacement or repair; of any septic system in New Hampshire during the period of suspension, he stipulates that he will pay an administrative penalty of \$2,000 per system, consistent with Env-C 604.02(q), upon notice of such violation by DES.

8. After a period of one year from the effective date of this agreement, septic system installer permit #2047 will be restored in full to Thomas F. Foote, without prejudice.
9. Any payment that becomes due pursuant to Paragraph #7 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

Department of Environmental Services - Legal Unit
Attn: Michael Sclafani, Legal Assistant
P.O. Box 95, Concord, NH 03302-0095

10. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
11. By executing this Agreement, Thomas F. Foote waives his right to a hearing on or any appeal of the license action identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
12. The effective date of this Agreement will be the date on which it is signed by Thomas F. Foote, the Director of the Water Division, and accepted by the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.
13. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

04-03-06
Date

COPY

Thomas F. Foote, Licensee
NH Septic Installer License #2047

Date

4/10/06

DES Water Division

COPY
Harry P. Stewart, P.E., Director

This Motion to Accept Settlement agreement is granted this 12th day of April, 2006.

COPY
for Michael P. ...
Michael P. ... Commissioner
Department of Environmental Services

- cc: Board of Selectmen, Town of Marlow
Gretchen Hamel, DES Legal Unit Administrator
Esther B. Piszczek, Attorney, NHDOJ/EPB
ec: William E. Evans, P.E., DES Water Division
Richard J. de Seve, DES Water Division